

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 10909 of 2003

Between:

Ch. Brahma Chari, S/o Babaiah R/o. Gurrapusela PACS,
Gurrepurala Post, Yerragondapalem Mandal,
Prakasam District.

..... PETITIONER

AND

- 1 The Person-in-Charge/Chairperson Gurrapusela P.A.C.S
Currapusela Post, Yerragondapalem (M) Prakasam District.
- 2 The General Manager, The Prakasam District Co-op. Central

Bank Ltd., Ongole, Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly in the nature of Writ of Mandamus declaring the orders of 2nd respondent in Rc.No.Adm. F.No.177/2002-03/A5, dt.8-5-2003 as illegal, arbitrary and without jurisdiction and violating the By-laws of the society and the same may be set-aside and consequently direct the respondents to continue the petitioner into service as Sweeper cum Attender.

Counsel for the Petitioner: MR.S.SIVA PRASAD

Counsel for the Respondent No.1: Mr. R.V. Subba Rao

The Court made the following :

ORAL ORDER:

The petitioner filed this writ petition questioning the proceedings of the second respondent, dated 08.05.2003, directing the first respondent to dispense with the services of the employees, whose appointments were made after 1994 in the Societies is in violation of Act 2 of 1964.

I have taken a view in W.P.No.3171 of 2003 and batch on 30.08.2004, that the criteria for appointment or for retrenchment/dismissal of the employees of the Society is only in conformity with Section 116-C of the Cooperative Societies Act, 1964 (for short 'the Act'). Merely because the appointments are made after the Act 2 of 1994, it cannot be said that the said appointments are illegal and in violation of the Act. The said appointments are against the vacancy of staffing pattern fixed by the Society and approved by the Registrar of Cooperative Societies, subject to condition that the expenditure towards pay and allowances payable to the employees of the Society shall not exceed 2% of the working capital or 30% of the gross profits in terms of the Actual in a year, which ever is less, action can be taken against them.

Therefore, while admitting the writ petition on 13.06.2003, this Court made it clear that if the continuation of the petitioner in service is in contravention of Section 116-C of the Act, it shall be open to the first respondent-Society to take necessary steps in accordance with law and the status quo order granted shall not come in the way.

The writ petition is accordingly disposed of directing the respondents to take necessary action either for continuance or for discontinuance or retrenchment of the petitioner in conformity with the provisions of Section 116-C of the Act. No costs.

V.Eswaraiah, J

Date: 05.10.2004

va

ASSISTANT REGISTRAR

To

- 1 The Person-in-Charge/Chairperson Currapusela P.A.C.S
Currapusela Post, Yerragondapalem (M) Prakasam District.
- 2 The General Manager, The Prakasam District Co-op. Central

Bank Ltd Ongole, Prakasam Dist.

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